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File No. O. Poona University/50

Legal Deptt.

A **BRANCH**

Subject:— Opinions under the Poona University Act 1948

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C O N T E N T S.

Legal Department File No. [illegible] Poona University /50

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Poona University Act, 1948, sec. 16: Position of representatives elected by the City and Suburban Municipalities on the Court.

This reference was unnecessary. Attention is invited to paragraph 19 in Appendix IV to the Bombay Provincial Municipal Corporations Act, 1949, which makes specific provision for this purpose. Under sub-section (2) of section 16 of the Poona University Act, 1948, the two representatives elected by the Poona City Borough Municipality and the Poona Suburban Borough Municipality will continue in office until they complete a terme of five years.

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O.C. Remembrancer of Legal & Affairs.

U.R. to E.D.No. 8529, dated the 21st June 1950.

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In their application dated 6th September, 1950, Professor Wadekar and others request the Chancellor to rule that the further direction of development of the Poona University, as involved in the Poona University Act, 1948, should be interpreted to mean an organization of the University teaching on what is described in the application itself to be "a single unitary basis and not on 'differentiation basis of coordination.' Paragraph (viii) of the application describes what is meant as the single unitary basis theory and as the differentiation basis theory. In support of their contention the applicants rely on sections 39(3)(iv) and (v) and section 40(1) and (2) of the Poona University Act. The Applicants' view is supported by the Vice-Chancellor of the University who relates on certain passages in the report of the Jaykar Committee which was the basis of the Act.

2. The question seems to have arisen in consequence of a scheme prepared by the Board of University Teaching in Poona according to which it is proposed that 'all the courses for the B.A.(General) degree (including the compulsory English courses) shall be taught at all three centres viz. the N. Wadia College, centre, the S.P.College Centre and the Ferguson College Centre while courses for the B.A.(Honours) degree shall be taught at one centre'. The Vice-Chancellor states that the scheme proposed by the Board of University Teaching was based on a resolution passed by certain Professors of the Wadia College. It is stated that the scheme by the Board of University Teaching was approved also by the Academic Council. At present the Scheme as approved by the two bodies viz., the Board of University Teaching and the Academic Council is before the Executive Council of the University. The

executive Cojncil has referred back the proposal to the Board of University Teaching for reconsideration and also for examining the possibility of developing alternatively a single centre of University Teaching. The supporters of the scheme however contend that sections 39 and 40 of the Poona University Act do not make it obligatory on the University to have one centre for the Post-Intermediate instruction.

3. Section 60 of the Poona University Act under which this reference has been made provides that if any question arises regarding the interpretation of any provisions of the Act or of any statutes, ordinances, regulations or rule the matter shall be referred to the Chancellor who shall decide the question. Neither in Professor Wadekar's application nor in the letter of the Vice-Chancellor there is any reference to any Statute, ordinance , rule or regulation of which interpretation is sought. So far as the provisions of sections 39 and 40 of the Act themselves are concerned, as will be pointed out below, the question which has arisen does not so much relate to the interpretation of the said sections but is one connected with the execution or enforcement of the policy underlying them. It is true that under section 40(1) all instruction, teaching etc. shall be conducted by the University and shall be imparted by the teachers of the University- section 40(3) relates to the ppointment of the Board of University Teaching and it is to be constituted for the purpose of organizing and co-ordinating the instruction, teaching etc. Section 39(3) relates to the powers of the University in its relations with constitutent colleges and institutions. For that purpose the University is empowered to frame statutes. Such statutes can be framed to coordinate and regulate the facilities provided by college for teaching and research and to require colleges to confine the enrolment of students to certain subjects. It is true that under these two

sections it would be open to provide that there shall be a single unitary basis of teaching which appears to be the ideal or ultimate object of the University. The Jayker Committee which is the basis of the Poona University Act may have stated in its report that such should be the ideal or object of the University. But it is very doubtful whether the literal meaning of the words used in sections 39 and 40 could be held to suggest that such ideal or object must be put in to affect immediately and unless that is done the University cannot legally function. The use of the expression "to coordinate" in both sections 39 and 40, is important. The Legislature has not used this expression 'to centralize'. The Vice-Chancellor has in fact himself admitted that the University has so far permitted a separate centre at the Wadia College for certain subjects. If sections 39 and 40 have to be given their literal and plain meaning, it cannot be held that there must be one centre or a single unitary basis for teaching etc. in the University to start with. The real point of difference between the two groups is whether the adoption of the single unitary basis must be done immediately or whether it can be achieved by stages.

4. In view of the fact -

(a) that the literal meaning of sections 39 and 40 does not warrant an interpretation that the University cannot function without a single unitary basis of teaching and in view of the fact,

(b) that no statutes have yet been framed under section 39 laying down a single centre, and

(c) that the question is still to be reconsidered by the authorities of the University,

the proper course to be adopted is to hold that the

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question under section 60 of the Act has not yet arisen and the stage for the Chancellor given an interpretation under the said sections has not as yet arisen in regard to the affairs of the University.

Sd/- J.R. Dhurandhar,

Additional Secretary to Government.

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